
FAIR HEARING OVERVIEW

Youth have the right to contest a department decision affecting YAVFC eligibility. The youth may request an administrative hearing after receiving a denial or closure of YAVFC through the [DHS-1301-YA, Young Adult Voluntary Foster Care Case Denial/Closure Notice](#). The department provides an administrative hearing to review the decision. Resolution to issues raised in the request for a hearing should be resolved as soon as possible. If the youth is found to be eligible, the caseworker must complete the necessary steps to enroll the youth immediately and withdraw the hearing request.

Hearing Request

A hearing request must be in writing and signed by the youth. Electronic, faxed, or photocopied signatures are acceptable. The Michigan Office of Administrative Hearings and Rules (MOAHR) will deny requests signed by unauthorized individuals and requests without signatures. The hearing request must reference the reason for the request and the specific issue in dispute.

Where to File a Hearing Request

Youth may email or mail the hearing request to:

[MDHHS YAVFC mailbox](#) or
MDHHS-Foster Care, Guardianship, and Adoption
Program Office
Young Adult Voluntary Foster Care
235 Grand Ave., Suite 514
Lansing, MI 48909

Deadlines for Requesting a Hearing

The youth has 90-calendar days from the mailing of the [DHS-1301-YA, Young Adult Voluntary Foster Care Case Denial/Closure Notice](#), to request a hearing. If a hearing request is filed more than 90-calendar days from the date of the notice of case action, the Foster Care, Guardianship, and Adoption Program Office must:

- Ensure the local office supervisor completes a DHS-3050, Hearing Summary, stating:

- The reason a request is ineligible for a hearing.
- The reason why the youth is ineligible for YAVFC.

- Send the hearing request and the summary to MOAHR.

MOAHR will inform the youth and the hearings coordinator if the request is denied.

Only MOAHR may deny a request for a hearing.

Hearing Request Process

Program Office must complete the following within 15-calendar days from receipt of the hearing request:

- Log the request.
- Contact the youth.
- Arrange a prehearing conference including all appropriate staff and the youth.
 - The conference is not required to be held within the 15-calendar day period.
- Determine the nature of the complaint and any possible resolution.
- Contact the local Michigan Department of Health and Human Services (MDHHS) director, program manager, supervisor, and worker.
 - The local MDHHS office must review the case prior to the prehearing conference, to assure staff completed the following:
 - Applied MDHHS policies and procedures correctly.
 - Explained MDHHS policies and procedures to the youth.
 - Uploaded all documentation into MiSACWIS for review.
 - Explored all eligibility alternatives. For example, if the denial is based on unemployment, is the youth involved in MI Works!?

- The program manager or local MDHHS director submits the results of their review to Program Office.
- Program Office will forward a DHS-3050, Hearing Summary, to MOAHR.

Administrative Review

The Program Office manager or designee must review all hearing requests. The purpose of the review is to assure staff did the following:

- Applied MDHHS policies and procedures correctly.
- Explained MDHHS policies and procedures to the youth.
- Explored all eligibility alternatives.

The Program Office manager or designee must evaluate the advisability of a hearing in relation to intent of policy, types of issues raised, appropriateness of the department's denial, cancellation, and administrative alternatives. The Program Office manager is responsible for determining that an appeal request **cannot** be resolved except through formal hearing. The administrative review does not replace the hearing process. The hearing must be held as scheduled unless the department reinstates YAVFC eligibility or the youth withdraws the hearing request.

Prehearing Conference

Youth must be offered a prehearing conference upon receipt of a hearing request.

Concerns expressed in the hearing request should be resolved whenever possible through a prehearing conference with the youth rather than through a hearing.

At the prehearing conference, the Program Office representative may be anyone from Program Office. This person acts on behalf of the Program Office manager.

The prehearing conference must take place as soon as possible after the hearing request is received unless:

- The youth states that they will not attend a prehearing conference; or
- A prehearing conference was held prior to the hearing request, the issue in dispute is clear, and MDHHS staff understand the positions of both the department and the youth.

All appropriate staff, including placement agency foster care (PAFC) staff if applicable, must be consulted before the prehearing conference and attend as necessary.

The following must be completed at the prehearing conference:

- Determine why the youth is disputing the MDHHS action.
- Review any documentation the youth has to support their position.
- Explain the department's position and identify and discuss the differences.
- Determine whether the dispute can be resolved or requires a hearing.

Corrected Case Action

The youth's case worker must complete the following steps if Program Office determines that the denial or termination is incorrect:

- Have the youth sign the [DHS-1297, YAVFC Agreement](#).
- Request that the youth sign [the DHS-18A, Hearing Request Withdrawal](#).
- Provide notification to the youth that corrective action has been taken.
- Notify MOAHR that the disputed action has been corrected and the youth's concerns have been resolved. MOAHR must have the following documentation to deny hearing requests:
 - The hearing request with the signature of the youth.
 - A summary of the actions taken to correct all the concerns. A DHS-3050, Hearing Summary, may be used.

MOAHR will send the youth a letter stating the hearing request is dismissed because there is no longer a basis for a hearing. The hearing will not be dismissed if the youth claims that the department failed to correct all the disputed actions.

Hearing Summary

The youth's case worker must complete a DHS-3050, Hearing Summary, if the dispute is not resolved at a prehearing conference. Case identifiers and notations on case status must be complete.

The narrative must include the following:

- Clear statement of case action.
- Facts which led to the action.
- Policy which supported the action.
- Correct address of the youth.
- Description of the relevant documents that Program Office intends to offer as exhibits at the hearing. Attached exhibits and documents must be clearly numbered and identified.

Withdrawals

When the issue is still in dispute, do not:

- Suggest that the youth withdraw the request; **or**
- Mail a withdrawal form to the youth unless it is requested.

Prior to Mailing Hearing Request to MOAHR

If the issue is resolved at the prehearing conference, the youth can withdraw the request. Program Office must ask for a signed statement requesting withdrawal from the youth. The DHS-18A, Hearing Request Withdrawal, may be used for this purpose. The withdrawal must clearly state why the youth has decided to withdraw the request. Program Office staff must enter all identifying case information on the withdrawal, attach the original copy to the request and forward them to MOAHR. A copy of the withdrawal must be filed in the case record.

After Mailing Hearing Request to MOAHR

Program Office must take the following steps, depending on how the youth requests the withdrawal:

- If the youth requests withdrawal while meeting with the caseworker:

- The caseworker requests that the youth complete the DHS-18A, Hearing Request Withdrawal, and emails the request to the [YAVFC mailbox](#).
- Program Office will fax a copy of the withdrawal request to MOAHR at 517-241-8541 or 517-335-6696. The original request form must be placed in the case file at the local office and submitted to Program Office.
- If the youth requests withdrawal via telephone:
 - Ask the youth to promptly send a written request for withdrawal to Program Office. The youth may obtain and complete a DHS-18A at the local office or online at [MDHHS > DOING BUSINESS WITH MDHHS > FORMS AND APPLICATIONS](#) under the Other category.
 - Program Office will fax a copy to MOAHR at 517-241-8541 or 517-335-6696, file the original in the case record.

Requests for Postponement/ Adjournment

The youth or local office may request a postponement, also called adjournment, of a scheduled hearing. If the youth requests a postponement, the youth should be instructed to call MOAHR to request the postponement. Only MOAHR can grant or deny a postponement. MOAHR will notify the hearings coordinator if the postponement is granted. MOAHR will send a new DHS-26A, Notice of Hearing, to all parties who received the original notice when the hearing is rescheduled.

If the postponement is granted at the youth's request, the standard of promptness is extended for as many calendar days as the hearing is postponed.

Late Arrival for the Hearing

The youth must arrive within 30 minutes of the hearing on the scheduled date.

If the youth arrives more than 30 minutes late, call MOAHR for direction on how to proceed. Whenever possible, the hearing will be held on the scheduled date.

Failure to Appear for the Hearing

If the youth does not appear at the hearing within 30 minutes of the scheduled time, MOAHR should be contacted. No negative action may be taken until written authorization from MOAHR has been received. If the youth later contacts MDHHS to have the hearing rescheduled, instruct the youth to contact MOAHR at the toll-free number listed on the DHS-26A, or by mail at: P.O. Box 30695, Lansing, MI 48909.

Presentation of the Case

Program Office and youth will each present their positions to the Administrative Law Judge (ALJ), who will determine whether the actions taken by Program Office are correct according to fact, law, policy, and procedure.

Following the opening statements, if any, the ALJ directs Program Office to explain the position of the department. The hearing summary, or highlights of it, may be read into the record. The hearing summary may be used as a guide in presenting the evidence, witnesses, and exhibits that support the department's position. The following should be included in the case presentation:

- An explanation of the actions taken.
- A summary of the policy or laws used to determine the action taken was correct.
- Any clarifications by the Program Office staff of the policy or laws used.
- The facts that led to the conclusion that the policy is relevant to the disputed case action.
- The MDHHS procedures ensuring the youth received adequate or timely notice of the proposed action and affording all other rights.

Both Program Office and the youth must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts,

argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered into evidence.

Admission of Evidence

The ALJ will follow the same rules of evidence used in circuit court to the extent practicable. The ALJ must ensure that the record is complete and may:

- Take an active role in questioning witnesses and parties.
- Assist either side to be sure the necessary information is presented on the record.
- Be more lenient than a circuit court judge in deciding what evidence may be presented.
- Refuse to accept evidence the ALJ believes is:
 - Unduly repetitious.
 - Immaterial.
 - Irrelevant.
 - Incompetent.

Either party may:

- State on the record its disagreement with the ALJ's decision to exclude evidence and the reason for the disagreement.
- Object to evidence the party believes should not be part of the hearing record.

The ALJ must state on the record when refusing to admit any evidence, and why it was not admitted. The ALJ may allow written documents to be admitted in place of oral testimony if the ALJ decides this is fair to both sides in the case being heard.

Hearing Decisions

The ALJ determines the facts based solely on the evidence at the hearing, draws conclusions of law, and issues a recommended decision to the state MDHHS director.

Copies of the recommended decision are sent to Program Office and the youth. Either party may file written exceptions within the timeframe as set forth in the recommended decision. The state

MDHHS director has 30-calendar days to issue a final decision and order or remand for rehearing.

The youth has the right to appeal the final decision and order to the family division of the circuit court in the county where the case is filed. The appeal must be filed within 30-calendar days of receipt of the final decision.

Implementing the Decision and Order

All hearing decisions must be recorded in the electronic and paper case records.

Some hearing decisions require implementation by Program Office and the caseworker. Any actions required by the decision and order must be implemented within 10-calendar days of the mailing date of the hearing decision. The decision and order serve as notice of the action, and additional notice is not required.

The decision and order should be implemented pending a court appeal unless a circuit court or other court with jurisdiction issues a stay. In all cases the Federal Compliance Division must be consulted prior to reinstating or reconciling title IV-E payments as the result of a hearing.

Rehearing/ Reconsideration

A rehearing is a full hearing which is granted when:

- The original hearing record is inadequate for purposes of judicial review.
- There is newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision.

A reconsideration is a paper review of the facts, law or any new evidence or legal arguments. It is granted when the original hearing record is adequate for purposes of judicial review and a rehearing is not necessary, but one of the parties believes the ALJ failed to accurately address all the relevant issues raised in the hearing request.

**Rehearing/
Reconsideration
Requests**

MDHHS or MOAHR may file a written request for rehearing or reconsideration. A decision must be made within 30-calendar days of receipt of the decision to request a rehearing or reconsideration. A request for a rehearing or reconsideration can occur under the following circumstances:

- Evidence that existed at the time of the original hearing and that could affect the outcome of the original hearing decision is newly discovered.
- Misapplication of policy or law in the hearing decision which led to a wrong conclusion.
- Typographical, mathematical, or other obvious errors in the hearing decision that affect the rights of the client.
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The department or the youth must specify all reasons for the request.

**Local Office
Requests**

A written request from the local office for a rehearing or reconsideration must be sent to Program Office for a recommendation. The written request must include all the following:

- A copy of the decision and order.
- A copy of the hearing summary and all evidence presented at the hearing.
- Reasons why a rehearing or reconsideration is appropriate.

Send requests to the [MDHHS YAVFC Mailbox](#).

**Standard of
Promptness**

Final action on hearing requests, including implementation of the decision and order, must be completed within 90-calendar days

from the date the hearing request was first date stamped by any local office unless

- There were delays in the scheduling.
- A request for was granted for continuance of the hearing.
- The hearing took multiple days to complete.

Payments During an Appeal

Payments will not be made during an appeal process.

POLICY CONTACT

Questions about this policy item may be directed to the [MDHHS YAVFC Mailbox](#).